

## REMARKS

The present application includes pending claims 1-23 and 24-35, all of which stand rejected. Claims 1, 9, 17 and 27 have been amended to clarify aspects of the invention.

Claims 1-23 and 25-35 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 2003/0018745 ("McGowan"). The Applicants respectfully traverse these rejections for at least the following reasons.

Claim 1 has been amended to recite, in part, "scheduling the identified additional media according to the at least one statistic [calculated using the information related to the user request for consumption of media], for consumption by the user via the communication network." The Applicants amended this claim to clarify that the identified media is the additional media, as recited in the clause "identifying additional media for consumption by the user using the at least one statistic [calculated using the information related to the user request for consumption of media]." The Applicants do not believe that this amendment raises any new issue that would require a further search as the claim, as previously recited, clearly recited that the "additional media" is identified, and that the "identified media" is "scheduled." Independent claims 9, 17 and 27 have been similarly amended.

McGowan discloses a system and method that includes "interactive content [that] may be custom-crafted for specific audiences (viewer base)." *See* McGowan at [0007]. In particular, McGowan discloses a virtual cable system (VCS) that "enables television viewers to access customized regions of the WWW [world wide web]." *See id.* at [0010].

In McGowan, "there is depicted interactive requests/responses 235 from viewers of VCS that are transmitted back from each viewer's home." *See id.* at [0043]. The "servers pass on key

data 245 for each interactive request to the Usage and Experience Database 55 maintained by the VCS operator.” *See id.* Thus, McGowan discloses that data from a user request is passed onto the Usage and Experience Database 55 maintained by a VCS operator. However, this data is not used to schedule any programming. Instead, channels are already scheduled before the data from a particular viewer is even received. In particular, McGowan discloses the following:

The VCS operator, content provider, cable system, advertisers, or other key business partners are the entities that decide what a channel should be and how many channels there should be.... For the purposes of test marketing, the new content provider may assembly representative programming for this channel, provide the content to a VCS operator, and have the VCS operator make this “test” channel available over the WWW for test marketing purposes, including gathering history of interactivity to provide demographic information and responses to alternative advertising concepts.

\* \* \*

The VCS additionally provides assistance in the selection process using artificial intelligence (AI) rules and recommendations. The Usage and Experience Database 55 constructed from viewer interactive requests and actions form the basis for developing AI routines.... This data is converted into rules that assist – or simply offer recommendation – in the selection of content for each channel.... For example, in creating a channel of cooking programs, **prior data** in the Usage and Experience Database 55 may **suggest** demographics patterns to stress or to avoid in choosing content. Thus, a rule may comprise a demographic pattern, for instance, only distribute Spanish speaking video content in predominantly Spanish neighborhoods. The AI Interface additionally functions to **suggest, but not control** the process of content selection.

*See id.* at [0032]-[0033].

As shown above, McGowan discloses that data related to a user selection is passed on to the Usage and Experience Database 55. *See id.* at [0043]. However, this data is not used to schedule additional media. Instead, the Usage and Experience Database 55 is constructed from a

plurality of requests and converted into AI routines. *See id.* at [0033]. The AI routines are used to suggest, but not control, content selection.

In McGowan, viewers are channeled “to specific parts of the WWW where they can view ‘standardseeming’ but specifically targeted television channels.” *See id.* at [0050]. These “standardseeming” targeted television channels are already scheduled. The specific user’s request does not determine the scheduling of those channels.

Thus, the Applicants respectfully submit that McGowan does not describe, teach or suggest “scheduling the identified additional media according to the at least one statistic [calculated using the information related to the user request for consumption of media], for consumption by the user via the communication network,” as recited in claim 1. Independent claims 9, 17 and 27 recite similar limitations. For at least these reasons, the Applicants respectfully submit that McGowan does not anticipate claims 1-23 and 25-35.

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request reconsideration of the claim rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

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Amendment Under 37 C.F.R. § 1.111  
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The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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